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IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : PATENT

Michael Kühn et al. :

Serial No.: 10/540,010 : Art Unit: 3652

Filed: June 22, 2005 : Examiner:

For: **SUSPENSION DEVICE** :

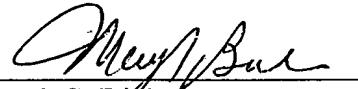
**SUBMISSION OF ENGLISH LANGUAGE
PRELIMINARY EXAMINATION REPORT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is an English language Preliminary Examination Report for the above-identified application.

Respectfully submitted,



Mark S. Bicks
Reg. No. 28,770

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Dated: March 15, 2006

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 72.2)

Date of mailing (day/month/year)
23 February 2006 (23.02.2006)

Applicant's or agent's file reference
40cdh/229147

International application No.
PCT/EP2004/000762

Applicant

HYDAC SYSTEM GMBH et al

To:

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Lange Strasse 51
70174 Stuttgart
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Bartels und Partner
Patentanwälte

Eingegangen:
Received: 01. MRZ. 2006

TERMIN

IMPORTANT NOTIFICATION

International filing date (day/month/year)
29 January 2004 (29.01.2004)

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

KR

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Agnes Wittmann-Regis

Facsimile No.+41 22 740 14 35

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Translation

PATENT COOPERATION TREATY PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 40cdh/229147	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/000762	International filing date (day/month/year) 29.01.2004	Priority date (day/month/year) 07.02.2003
International Patent Classification (IPC) or national classification and IPC F15B 1/02		
Applicant HYDAC SYSTEM GMBH		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																									
<p>4. This report contains indications relating to the following items:</p> <table style="margin-left: 20px; border-collapse: collapse;"> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>		<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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<input type="checkbox"/>	Box No. VIII	Certain observations on the international application																							

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/000762

Box No. I

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- international search (Rule 12.3 and 23.1(b))
 publication of the international application (Rule 12.4)
 international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):
- the international application as originally filed/furnished
 the description:
 pages 1-11 received by this Authority on _____ as originally filed/furnished
 pages* _____
 pages* _____ received by this Authority on _____
 the claims:
 nos. 1-10 received by this Authority on _____ as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* _____ received by this Authority on _____
 nos.* _____ received by this Authority on _____
 the drawings:
 sheets 1/1 received by this Authority on _____ as originally filed/furnished
 sheets* _____
 sheets* _____ received by this Authority on _____
 a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 8-10	YES
	Claims 1-6	NO
Inventive step (IS)	Claims 8-10	YES
	Claims 1-7	NO
Industrial applicability (IA)	Claims 1-10	YES
	Claims	NO

2. Citations and explanations (Rule 70.7)

- 1 This report makes reference to the following documents:

D1: US 6 167 701 B1 (QUINN PATRICK ET AL) 2 January 2001 (2001-01-02)
 D2: EP 0 482 248 A (KOBE STEEL LTD) 29 April 1992 (1992-04-29)

2 INDEPENDENT CLAIM 1

- 2.1 The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel within the meaning of PCT Article 33(2).

D1 discloses (the references in parentheses are to this document):

Cushioning device for at least one drive part (16) that is to be cushioned, said part being hydraulically connectable to an accumulator device (42) serving the cushioning system by a first valve unit (48) and hydraulically connectable to a

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Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

tank connection (40) by a second valve unit (38), wherein a pressure compensation device (54) is provided which, when actuated, adjusts the prevailing hydraulic pressure in the drive part (16) and the accumulator device (42) to produce a common pressure level.

2.1 D2 (see, in particular, column 5, line 50 to column 8, line 23 and figure 1) likewise discloses a device with the features of claim 1.

3 DEPENDENT CLAIMS

3.1 Dependent claims 2-7 do not appear to contain any additional features which, in combination with the features of any claim to which they refer back, meet the PCT requirements for novelty and inventive step. The reasons are:

3.2 Claims 2-6: the subject matter of claims 2-6 is not novel (PCT Article 33(2)): see D1, in particular column 1, line 66 to column 3, line 32 and figure 1.

3.3 Claim 7: the subject matter of claim 7 does not involve an inventive step (PCT Article 33(3)): dependent claim 7 pertains to a minor structural modification of the device according to claim 6 of the kind that a person skilled in the art routinely makes on the basis of familiar considerations, especially since the resulting advantages are readily foreseeable. Consequently,

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the subject matter of claim 7 does not involve an inventive step.

3.4 The combination of features in dependent claim 8 is neither known from nor suggested by the available prior art. The reasons are:

3.5 D1, which is considered to represent the closest prior art, discloses (the references in parentheses are to this document):

Cushioning device as claimed, wherein the inlet side of the pressure balance (54) is connected to the outlet side of the first valve unit (48).

The subject matter of claim 8 differs therefrom in that:

the outlet side of the pressure balance is connected to a third valve unit whose outlet is connected to the tank connection.

3.6 The problem addressed by the present invention may therefore be considered that of briefly opening a third valve unit before actuating the cushioning system to enable pressure to be released from the hydraulic accumulator, thereby adjusting the pressure therein to the current pressure on the piston side of the working cylinder.

3.7 Since none of the documents cited in the search report or acknowledged in the introductory part of

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Box No. V

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the description indicates the features of dependent claim 8 in their entirety, the subject matter of claim 8 is novel and involves an inventive step (PCT Article 33(2) and (3)).

4

INDUSTRIAL APPLICABILITY

The subject matter of claims 1-10 can be made and used and is therefore industrially applicable.